

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

NAJEE-EZRA L. HURD,

Plaintiff,

V.

Case No. 2:20-cv-02099-JTF-tmp

**MEMPHIS LIGHT, GAS AND
WATER DIVISION,**

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANT'S MOTION TO DISMISS, AND DISMISSING PLAINTIFF'S
COMPLAINT WITH PREJUDICE**

Before the Court is Defendant Memphis Light, Gas and Water Division's Motion to Dismiss, or, in the Alternative, to Compel Plaintiff's Appearance at His Properly Noticed Deposition, and for Sanctions, filed on April 9, 2021. (ECF No. 32.) Plaintiff did not file a response. On April 27, 2021, the Chief Magistrate Judge issued a Report and Recommendation to grant Defendant's motion and dismiss this case with prejudice. (ECF No. 35.) Neither party filed objections to the Report and Recommendation. As explained below, the Court **ADOPTS** the Chief Magistrate Judge's Report and Recommendation. Defendant's Motion to Dismiss is **GRANTED**. Plaintiff's Complaint is **DISMISSED** with prejudice.

FINDINGS OF FACT

In the Report and Recommendation, the Chief Magistrate Judge provides, and this Court adopts and incorporates, proposed findings of fact in this case. (ECF No. 35, 1–3.) As noted, Plaintiff failed to object to the Chief Magistrate Judge’s findings.

LEGAL STANDARD

Congress passed 28 U.S.C. § 636(b) “to relieve some of the burden on the federal courts by permitting the assignment of certain district court duties to magistrates.” *United States v. Curtis*, 237 F.3d 598, 602 (6th Cir. 2001). Pursuant to the provision, magistrate judges may hear and determine any pretrial matter pending before the Court, except various dispositive motions. 28 U.S.C. § 636(b)(1)(A). Regarding those excepted dispositive motions, magistrate judges may still hear and submit to the district court proposed findings of fact and recommendations for disposition. 28 U.S.C. § 636(b)(1)(B). Upon hearing a pending matter, “the magistrate judge must enter a recommended disposition, including, if appropriate, proposed findings of fact.” Fed. R. Civ. P. 72(b)(1); *see also Baker v. Peterson*, 67 F. App’x 308, 310 (6th Cir. 2003). Any party who disagrees with a magistrate’s proposed findings and recommendation may file written objections to the report and recommendation. Fed. R. Civ. P. 72(b)(2).

The standard of review that is applied by the district court depends on the nature of the matter considered by the magistrate judge. *See Baker*, 67 F. App’x at 310 (citations omitted.) Upon review, the district court may accept, reject, or modify the proposed findings or recommendations of the magistrate judge. *Brown v. Bd. of Educ.*, 47 F. Supp. 3d 665, 674 (W.D. Tenn. 2014); *see also* 28 U.S.C. § 636(b)(1). The court “may also receive evidence or recommit the matter to the [m]agistrate [j]udge with instructions.” *Moses v. Gardner*, No. 2:14-cv-2706-SHL-dkv, 2015 U.S. Dist. LEXIS 29701, at *3 (W.D. Tenn. Mar. 11, 2015).

Usually, the district court must review dispositive motions under the *de novo* standard. However, a district court is not required to review “a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). A district judge should adopt the findings and rulings of the magistrate judge to which no specific objection is filed. *Brown*, 47 F. Supp. 3d at 674.

ANALYSIS

The Report and Recommendation recommends that Plaintiff's Complaint be dismissed pursuant to Fed. R. Civ. P. 37(b)(2)(A)(v). (ECF No. 35, 7.) Additionally, the Report and Recommendation recommends that Defendant's request for attorney's fees be denied. (*Id.*) Neither party filed objections, and the time to do so has expired. The Court has reviewed the docket in this case and—while not obligated to do so—has conducted a *de novo* review of the Chief Magistrate Judge's Report and Recommendation. The Court finds that Plaintiff's conduct in this case warrants dismissal and that an award of attorney's fees is unnecessary. Accordingly, the Court **ADOPTS** the Report and Recommendation. Defendant's Motion to Dismiss is **GRANTED**. Plaintiff's Complaint is **DISMISSED** with prejudice.

CONCLUSION

Upon *de novo* review, the Court hereby **ADOPTS** the Chief Magistrate Judge's Report and Recommendation (ECF No. 35). Defendant's Motion to Dismiss (ECF No. 32) is **GRANTED**. Plaintiff's Complaint is **DISMISSED** with prejudice.

IT IS SO ORDERED this 24th day of August, 2021.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
UNITED STATES DISTRICT JUDGE